



Federal Communications Commission
Washington, D.C. 20554

December 3, 2010

In Reply Refer to:
1800B3

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In re: New (AM), Snohomish, WA
Facility ID No. 160891
File No. BNP-20071010ABZ

Environmental Assessment

Dear Mr. Jacobi:

The Commission has before it the referenced application, as amended (the "Application"), of CAAM Partnership, LLC ("CAAM") for a new AM broadcast station in Snohomish, Washington. Before processing of the application can be completed, we require that CAAM seek input from the U.S. Fish and Wildlife Service ("USFWS") regarding certain materials submitted by CAAM in a recent amendment to the Application.

The Application specifies daytime non-directional antenna operations at 20 kW from one 59.4-meter tower that has already been constructed at the Station's proposed site and currently is used by KRKO(AM), Everett, Washington, and nighttime directional antenna operations at 50 kW from four 59.4-meter antenna towers, two of which already have been constructed at the proposed site and currently are used by KRKO(AM) and two of which CAAM proposes to construct at the proposed site. Because the Application proposes to construct two additional towers in a flood plain, CAAM submitted an environmental assessment ("EA") pursuant to Section 1.1307(a)(6) of the Commission's Rules (the "Rules").¹ The EA included a Biological Assessment ("Updated BA") that updated the BA ("Original BA") included in the EA that accompanied the application to construct the towers currently used by KRKO(AM).

In a letter dated June 18, 2010 ("*June Letter*"), we notified CAAM that its EA was deficient and requested certain additional information with respect to the environmental effects of the proposed towers. Among other things, we noted that it was not clear whether CAAM had sought input from the USFWS on the Updated BA. We requested that CAAM do so or verify that it already had done so. We also requested that CAAM "submit additional information updating the findings in the [O]riginal BA regarding Dolly Varden, Chinook Salmon and Coho Salmon."

¹ 47 C.F.R. § 1.1307(a)(6).

CAAM amended the Application on September 13, 2010, in response to the *June Letter*. We reviewed the amendment and found it did not include all of the information we requested. For instance, CAAM did not submit any updated information regarding Dolly Varden, Chinook Salmon and Coho Salmon. CAAM did, however, demonstrate that it had sought and received USFWS input on the Updated BA, submitting electronic correspondence from USFWS dated July 16, 2010.

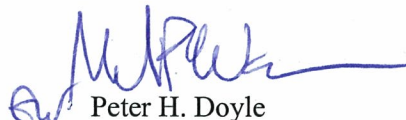
In a letter dated October 13, 2010 ("*October Letter*"), we requested that CAAM submit the information omitted from its response to the *June Letter*. On October 28, 2010, CAAM submitted another amendment to the Application. Among other things, the amendment included an update to the Updated BA ("*BA Update*").

We find that CAAM has provided all of the information that we requested in the *June* and *October Letters*. However, it does not appear that CAAM sought input from USFWS on the BA Update.² For the reasons discussed below, we believe that further consultation with USFWS is necessary.

In the BA Update, CAAM noted that, since the submission of the BA, the designation for the Puget Sound Chinook Salmon had been revised, critical habitat for the Bull Trout had been proposed and the Puget Sound Steelhead had been listed as threatened. These recent developments preclude us from relying on either the Original or the Updated BA, both of which USFWS has reviewed.³ The Joint Regulations of USFWS and the National Marine Fisheries Service ("*NMFS*") require that the Commission submit the BA upon which it will base its environmental review to USFWS. Therefore, the update filed by CAAM on October 28, 2010, must be submitted to USFWS for their review.⁴

Accordingly, we request that CAAM seek further guidance from USFWS regarding the effect of the proposed towers on protected species and their habitats. We request that CAAM undertake this effort now or verify that it already has done so. We will withhold action on the Application for a period of 60 days to enable CAAM to do this.

Sincerely,



Peter H. Doyle
Chief, Audio Division
Media Bureau

² We note that USFWS may well have reviewed its database and that of NMFS for recently designated or proposed habitats and listed or proposed species when it conducted its review of the Updated BA in July. Unfortunately, it is not clear from the face of the electronic correspondence that CAAM received from USFWS that USFWS did any more than "review the package [CAAM] sent," which necessarily would not have included the updates prepared in response to the *October Letter*.

³ 50 C.F.R. § 402.12(g). Section 402.12(g) provides that, "[i]f a proposed action requiring the preparation of a biological assessment is identical, or very similar, to a previous action for which a biological assessment was prepared, the Federal agency may fulfill the biological assessment requirement for the proposed action by incorporating by reference the earlier biological assessment, plus any supporting data from other documents that are pertinent to the consultation, into a written certification that: (1) The proposed action involves similar impacts to the same species in the same geographic area; (2) No new species have been listed or proposed or no new critical habitats designated or proposed for the action area; and (3) The biological assessment has been supplemented with any relevant changes in information." *Id.*

⁴ 50 C.F.R. § 402.12 (j) (requiring submission of biological assessments to USFWS).

cc: CAAM Partnership, LLC
Citizens to Preserve the Upper Snohomish River Valley
Stewards of the Land and Community
Angela Day
Albert C. Highberger